

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/687,138	SIE ET AL.	
	Examiner	Art Unit	
	KIEU-OANH T. BUI	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to amendment filed on 09/14/2004.
2.  The allowed claim(s) is/are 1-5,7-15 and 17-20.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

## **DETAILED ACTION**

### ***Remarks & Response to Appeal Brief***

1. The examiner would like to offer an apology to the applicants for overlooking the paper amended after final received on 09/14/04. Since the examiner removes the final office action, that amended paper should be officially entered and considered by the examiner. The examiner now acknowledges to officially entering that amended paper with the amendment of claims 1 and 10 for the further step of “wherein the storing the segment comprises storing the segment at a user location.”
2. Claims 6 and 16 were cancelled therein. Pending claims are now 1-5, 7-15, and 17-20.

### ***Allowable Subject Matter***

3. Claims 1-5, 7-15, and 17-20 are allowed.

### ***Reasons for Allowance***

4. The following is an examiner's statement of reasons for allowance:

The closest prior art of record issued to Kermode fails to teach or suggest a method for pre-storing a portion of program distributed on a plurality of conduits in a linear schedule with staggered start times, including the steps of determining a first start time of the program on a first distribution conduit; determining a second start time of the program on a second distribution conduit; then a stagger time is determined between the first start time and the second start time; and a segment equal in length to the stagger time is stored at a user location; and the detecting step a user request to begin playing the request after the storing step has begun as cited in claims

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1, 10, and 20. Kermode teaches to download segments asynchronously, not synchronously, so Kermode does not conduct the downloading in a linear schedule with staggered start times, and Kermode does not further show the segment equal in length with the staggered times between the two start times but Kermode shows the individual segments instead. In addition, Song et al (US Patent Pub US 2002/0157103 A1-new reference cited) also teaches about the delay of each individual segments (Fig. 3 and page 4/par. 0055), Song is also silent on the step of storing the segment equal in length of the staggered times between the first start time and the second start time of segments of the same program on different conduits or channels.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### ***Conclusion***

**5. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to PTO New Central Fax number:**

**(571) 273-8300, (for Technology Center 2600 only)**

*Hand deliveries must be made to Customer Service Window,  
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.*

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (571) 272-7291. The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM, with alternate Fridays off.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Kieu-Oanh Bui  
Primary Examiner  
Art Unit 2611

KB

Oct. 28, 2005